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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-0237 MHP
)	
Plaintiff,)	
)	STIPULATION AND [PROPOSED]
v.)	ORDER SETTING DATES AND
)	DOCUMENTING EXCLUSION OF
DAVID NOSAL,)	TIME
)	
Defendant.)	

With the agreement of the parties, the Court enters this order documenting the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161, from August 25, 2008, to November 17, 2008, with respect to the defendant David Nosal. The parties stipulate, and the Court finds and holds, as follows:

1. The parties last appeared before the Court on August 25, 2008.
2. During the August 25, 2008, hearing, the Court set a motions hearing date of January 28, 2009, for the defendant's pre-trial motions. The Court directed the parties to agree on a briefing schedule with respect to those motions. Since then, the defendant has determined that he wishes to file a motion for recusal of the United States Attorney's Office for the Northern District of California, to be heard on November 17, 2008, at 11:00 a.m. At that time, and depending on the Court's ruling on the defense motion for recusal, defense counsel will seek to re-visit the issue of whether a January 2009 hearing

date for additional motions is achievable.

3. The parties have agreed on the following briefing schedule with respect to the defendant's motion for recusal:

Defendant's filing due: October 15, 2008

Government's response due: November 3, 2008

Defendant's reply due: November 10, 2008

Motion hearing: November 17, 2008

4. At the August 25, 2008, hearing, counsel for the defendant indicated that he would be occupied in trial and preparing for trial in another case during several weeks in September and October 2008. Based on the complexity of this case, and based on defense counsel's unavailability, defense counsel needs until at least October 15, 2008, to prepare and file his motion for recusal.

5. Based on the facts set out above and on the record in open court, the parties agree, and the Court so finds, that taking into the account the public interest in the prompt disposition of criminal cases, granting a continuance until November 17, 2008, is necessary based on the complexity of this case, on the need for both counsel to prepare and respond to motions, on defense counsel's unavailability, and on the need for effective preparation of defense counsel. See 18 U.S.C. § 3161(h)(8)(B)(ii) & (iv). Given these circumstances, the Court finds that the ends of justice served by excluding the period from August 25, 2008, to November 17, 2008, outweigh the best interest of the public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

6. Accordingly, and with the consent of the defendant David Nosal, the Court (1) sets the briefing schedule set out in ¶ 3 above with respect to the defendant

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Nosal's motion for recusal and (2) orders that the period from August 25, 2008, to November 17, 2008, be excluded from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(ii) and (iv).

SO STIPULATED.

DATED: September 26, 2008

SCOTT N. SCHOOLS
Associate Deputy Attorney General
Acting United States Attorney

/s/
KYLE F. WALDINGER
Assistant United States Attorney

DATED: September 25, 2008

/s/
STEVEN F. GRUEL
Attorney for the defendant David Nosal

IT IS SO ORDERED.

DATED: ~~September~~ October 1, 2008

